Date: January 27, 2020
To: Board of County Commissioners
Through: Jan Yeckes, Planning Division Manager
From: Kelsea Dombrovski, Planner II
Subject: PWD Neighborhood Outreach Potential Code Change

Direction/Information
Staff is seeking direction from the BOCC on whether we should change the Land Development Code to require public outreach in certain circumstances. Research on neighboring jurisdictions’ practices was previously conducted and presented. A preliminary referral to stakeholders and a Planning Commission study session have been conducted, and feedback from this outreach is presented herein.

Request and Recommendation
Staff recommends developing regulations to require neighborhood meetings based on recent controversial land use cases that may have benefitted from neighborhood outreach. Staff have conducted research on seventeen neighboring jurisdictions’ practices, conducted a preliminary referral to stakeholders, and held a Planning Commission study session, and have developed possible alternatives for the Board’s consideration.

Background
The Arapahoe County Land Development Code does not require neighborhood meetings for most land use applications. The Code only requires a neighborhood meeting for proposed Commercial Mobile Radio Service (cellular) facilities within 500 feet of residential zoning. Staff consistently recommends neighborhood meetings when we identify potential land use conflicts or neighborhood concern. However, applicants are not obligated to follow staff’s advice.

Links to Align Arapahoe
Quality of Life
Requiring neighborhood meetings could identify issues early in the project and could result in design improvements for future land use projects.

Discussion
Background
While staff often recommends neighborhood meetings, applicants do not always opt to perform the recommended outreach. Two recent cases highlight the importance of neighborhood outreach:
the Silver Creek Sporting Club and Waffle House. In both cases, staff strongly recommended reaching out to neighbors. Neither applicant followed that advice; both cases resulted in significant neighborhood opposition, lengthy public hearings, and denials. Administrative cases can sometimes benefit from neighborhood meetings: minor changes such as relocating a tennis/pickleball court or trash enclosure could have impacts on neighbors, even if those changes can be approved by staff.

In addition, late citizen opposition to a project (as a result of the lack of early opportunity for input) often results in higher project-related costs for the County as well as for the applicant. High-impact cases without early neighborhood communication often result in a major out-pouring of comments and questions at the time of the staff report and hearing notice. This high-volume response requires considerable staff time to track and convey comments to the applicant and decision-makers, and may result in significantly longer and more complex public hearings.

At those hearings, applicants often complain that changing their plans to respond to citizen concern is too costly and will result in unacceptable delays given the significant investment that has already been made in preparing detailed plans and undergoing staff review and agency referrals. The applicant team often overlooks the fact that they may have avoided these expensive and timely delays by heeding staff advice to offer an early meeting to the neighborhood.

Comparable Jurisdictions
Many communities in the region require neighborhood meetings in different circumstances or with staff discretion. Jefferson County requires meetings for any change in zoning and certain special uses. Adams County requires neighborhood meetings if one is deemed necessary by the Director, often for rezonings or conditional use permits. The City of Littleton requires meetings whenever a case will result in a public hearing. The Town of Castle Rock requires neighborhood meetings for certain case types and gives staff the authority to request neighborhood outreach for others. Fourteen of the seventeen jurisdictions contacted have a code provision requiring a neighborhood meeting for at least one case type. (See attachment for more details).

Thirteen jurisdictions require meetings for zoning/rezoning, including at least one stage of a new Planned Unit Development. Ten jurisdictions require a meeting for Conditional Use Permit, Use by Special Review, and/or Special Exception Use applications. For comparison to the County’s meeting requirement for Commercial Mobile Radio Service (cellular) facilities, three jurisdictions require meetings in similar contexts, but typically only if the case requires a Conditional Use Permit or other special consideration. Generally, jurisdictions required neighborhood meetings for cases with the most potential impact on nearby residents. For example, rezonings or uses by special review can completely change how a property functions within a neighborhood.

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<thead>
<tr>
<th>Most Common Case Types Requiring Neighborhood Meeting</th>
<th>Number of Jurisdictions (of 17 total)</th>
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<tbody>
<tr>
<td>Zoning/Rezoning, including PUD Stages</td>
<td>13</td>
</tr>
<tr>
<td>Conditional Use Permit, Use by Special Review, Special Exception Use</td>
<td>10</td>
</tr>
<tr>
<td>Annexation</td>
<td>3</td>
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<tr>
<td>CMRS or Telecommunications</td>
<td>3</td>
</tr>
</tbody>
</table>
Most jurisdictions have staff attend neighborhood meetings, and meeting location is typically selected at the applicant’s discretion, with some guidance from staff.

### Staff Attend Neighborhood Meeting

<table>
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<tr>
<th>Number of Jurisdictions (of 17 total)</th>
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<tr>
<td>Yes</td>
</tr>
<tr>
<td>No</td>
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<tr>
<td>Depends/Unknown</td>
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### Meeting Location

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<tr>
<th>Number of Jurisdictions (of 17 total)</th>
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<tr>
<td>Applicant’s Discretion, Community Site Encouraged</td>
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<tr>
<td>Typical Location, e.g. City Hall</td>
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<tr>
<td>Unknown</td>
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Six jurisdictions reported clear authority for a manager or director to require a neighborhood meeting if the code did not otherwise require it, while eight jurisdictions either did not have dedicated authority or did not have meeting-specific authority (e.g. they were able to request additional information, but perhaps not a meeting). Three jurisdictions were in the process of updating their code, had old guidance documents with unclear language, or had another reason to be uncertain about authority to require a meeting.

### Staff Ability to Require Meeting if Not Required Otherwise?

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<th>Number of Jurisdictions (of 17 total)</th>
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<tr>
<td>Yes</td>
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<tr>
<td>No</td>
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<tr>
<td>Unknown</td>
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Preliminary Stakeholder Referral

Staff conducted an early referral in fall 2019 to receive feedback on the draft regulations. Homeowners’ associations, local developers, neighborhood groups, and other interested stakeholders were contacted, and two in-person meetings were held with interested parties: the Four Square Mile Development Sub-Committee and the Copperleaf Master Developer. A summary of comments and County response is included in this packet, and the following updates to the draft Code were made as a result of the early referral:

- Add a line to the ‘Waivers and Special Requirements’ section that states: “The Planning Division may require an additional neighborhood meeting in the event of significant design changes, a lapsed pre-submittal application (valid for six months), or other relevant changes to the proposed land development project.”

- Add an option for a meeting prior to pre-submittal, with proper permission from the Planning Division
- Add a requirement for HOAs and neighborhood groups to be notified of the neighborhood meeting

- Subdivision added to the ‘Case Types’ list conditionally: “Subdivision, if deemed necessary by the Planning Division.”

- Location & Extent added to the ‘Case Types’ list conditionally: “Location and Extent, if deemed necessary by the Planning Division.”

- Major Amendments added to the ‘Case Types’ list conditionally: “Major Amendments, if deemed necessary by the Planning Division.”

- Add reference to Comprehensive Plan Amendments, which also require a neighborhood meeting

Planning Commission Study Session
A Planning Commission study session was held on December 3, 2019. Overall Commissioners were supportive of requiring neighborhood meetings prior to specific case types, emphasizing that meetings would remove the chance of citizen surprise and demonstrate developer commitment to connecting with the neighborhood.

Planning Commission members expressed interest in Planning staff attending neighborhood meetings. Commissioners also requested clear instructions for preparing the meeting summary report that would be requested of applicants.

Planning staff agree that some meetings would be important for staff to attend, and staff will attend meetings at their discretion and as appropriate. A template packet detailing the required components of the meeting summary report will be provided to applicants so requirements are clear.

Suggested Code Elements
Staff suggest the following elements for the proposed code change based on Planning Division operations, case types reviewed, geographic layout of the County, and other relevant factors:

Case types best suited for neighborhood meetings in Arapahoe County are zonings, rezonings, Planned Unit Development stages that set zoning, and Uses by Special Review. These case types have the highest chance of impacting neighboring citizens and land uses. The following case types may require a neighborhood meeting, if deemed necessary by the Planning Division: Location and Extent, Major Amendments to Planned Unit Developments, Subdivision (Preliminary Plat, Minor Subdivision, Replat), and any other application. Meetings will be required for CMRS facilities until the CMRS portion of the Code is amended; staff will refine outreach requirements in conjunction with updates to the CMRS code.

The draft Code language includes a provision for the Planning Division Manager to waive a required meeting; it may not always be necessary to hold a neighborhood meeting. For instance,
increasing the number of residents in a group home by as few as one person may trigger a Use by Special Review and therefore a neighborhood meeting. If there is interest from citizens, however, a meeting would still be required. Meeting waiver guidelines would be documented via a memo and shared with potential applicants.

A provision for the Planning Division Manager to require a neighborhood meeting not typically required by Code is also included. Occasionally, non-zoning or special review cases may have the potential to impact the neighborhood. In this case, the Division Manager would have the authority to require a meeting to ensure neighbors are aware of the proposed project and have early opportunity to comment. Meeting requirement guidelines would be documented via a memo and shared with potential applicants.

The neighborhood meeting would occur after pre-submittal meeting and prior to full application. This will give the applicant the opportunity to incorporate citizen concern in application documents prior to submittal, reducing the chance of potentially costly adjustments late in the project. This timing will also provide staff with a sense of neighborhood feedback prior to review, rather than prior to hearing. A neighborhood meeting may be permitted prior to a pre-submittal meeting, but the applicant must justify this timing and must obtain proper permission from the Planning Division.

The applicant would be responsible for compiling a list of mailing addresses for landowners within the dedicated noticing radius, drafting notice letters, sending letters by noticing date, and attesting to proper noticing. Staff would review notice materials to ensure accuracy and clarity.

Notice would be sent fifteen days prior to the neighborhood meeting. Property owners, homeowners’ associations, and neighborhood groups within 500 feet of the project boundary would receive the notice. The Planning Division may expand or contract the notification boundary as appropriate and per existing Code language.

The meeting would be held at a community space close to the project site and would be chosen at the applicant’s discretion.

Staff would not typically attend neighborhood meetings. There is opportunity for conflict and confusion: staff attendance may indicate staff or County approval or support of the project. Staff may also be approached with questions on other projects, broader County questions, or other topics they are not able to discuss or speak on, which may lead to misunderstandings. The applicant would also have the ability to present the proposed project without the distraction of staff presence. Further, the project being discussed at the meeting would not yet be an official or complete application with the County, and the County is not responsible for project characteristics presented by developers.

The applicant would submit a meeting summary report at time of application, which would contain: sign-in sheet with attendee names, addresses, and contact information; a copy and/or a summary of the presentation; a summary of comments made and feedback received; and a description of how they will address concerns presented. Neighborhood groups, HOAs, or other meeting attendees are welcome to submit notes or other materials to the County as well: staff
contact information would be included in the meeting noticing materials sent out by the applicant, and citizens could contact Planning staff directly.

If directed to move forward with the Code amendment, staff will conduct additional outreach with developers, neighborhood organizations, and HOAs via case referral.

Additionally, if directed to move forward with the Code amendment, staff will amend related sections of the Development application manual, including case processes, flowcharts, sign and notice letter templates, and the table of contents.

Alternatives

1. Move forward with the suggested code elements, detailed above.
2. Move forward with some changes to the suggested code elements.
3. Develop code alternatives, gather public feedback, and return for an additional study session.
4. Keep neighborhood meetings optional. Staff will continue to urge neighborhood outreach when appropriate, highlighting recent denials on cases that chose not to conduct neighborhood meetings.

Fiscal Impact
Management of high volumes of citizen comment at time of staff report and hearing strain staff’s time and add to the demands of case management. Longer and more complex public hearings can be a burden on staff and the Board, perhaps drawing valuable resources for a project that may not receive approval.

Reviewed By

Kelsea Dombrovski, Planner II
Jason Reynolds, Current Planning Program Manager
Jan Yeckes, Division Manager
Bryan Weimer, Department Director
Todd Weaver, Finance Department
Robert Hill, County Attorney
MEMORANDUM

TO: Board of County Commissioners
THRU: Bryan Weimer, Director of Public Works and Development
FROM: Jan Yeckes, Planning Division Manager
DATE: January 16, 2020
SUBJECT: Neighborhood Outreach Proposed Code Amendment – Staff Attendance Concerns

As part of the internal review process for a proposed amendment to the County’s Land Development Code, staff considered whether to propose that Planning Division staff members would be regular attendees and participants at neighborhood meetings to be conducted by applicants/developers for land development projects. Staff researched practices of other jurisdictions and found that this varies from one jurisdiction to another.

Planning Division staff is not recommending, at this time, that staff attend these meetings on a regular basis, but that the Planning Division Manager could determine that staff should attend a meeting on a case-specific basis if the benefits would likely outweigh the concerns. The determination for drafting the proposed code amendment in this way took into consideration the following factors:

- **Opportunity for applicant and neighbors to communicate freely and identify opportunities**
  - This can be an important time for the applicant and neighborhood to communicate openly to identify concerns and opportunities for the development to address concerns and to build trust without distraction.
  - This is the applicant’s required meeting. Use of the time for neighbors to ask questions of staff could result in a long meeting, even while not ensuring the applicant has sufficient time to share plans and to gather important input and have productive discussion.

- **Timing of the Meeting – County has not received the application/no County standing**
  - The meeting would occur between the time of the pre-submittal meeting and the time that an application is made to the County – there is no formal application at this point in time.
  - Staff has not conducted any review of an application and would be speaking in hypotheticals if asked to address questions.
  - There is a possibility that a project will not move forward based on early feedback from the neighbors; this may not be the best use of limited staff resources.
Misperceptions about staff’s reasons for attending/importance of transparency

- There may be misperceptions that the staff is working directly with the applicant or working directly with the neighborhood, especially if staff is expected to take minutes or interpret what is being said through written notes on the meeting.
- When staff does attend, it is important that everyone be aware that a County staff member is present and what that staff member’s role is (or is not) during the meeting.
- It is important that a neighborhood meeting not seem to be “a public hearing before the public hearing” and that the process reduces the risk that statements made by staff during a neighborhood meeting may be incorrectly understood (and represented) by the applicant or by the neighborhood as definitive when staff has not received a formal application for review.

Efficient use of staff time

- The Planning Division operates with a limited number of staff members and needs to maximize staff availability for addressing applications in a timely manner and to work on other longer-term projects (such as Land Development Code amendments); attending meetings on a regular basis will have significant impacts.
- Some projects may not move forward to a formal application based on early neighborhood feedback to the prospective applicant; this may not be the best use of limited staff resources.

How will the County know what happened at the meetings or that discussions are accurately reflected?

- The applicant will be asked to submit notes from the meeting.
- The neighborhood will have an opportunity to (a) provide minutes from the meeting and/or (b) provide comments through the County’s referral process.
- Some individuals may not agree with the position that their HOA or the consensus of neighbors attending a meeting provided through comments or minutes. Individuals have an opportunity to provide written or verbal comments to the County for any application that requires a public hearing, ensuring that varied perspectives are heard.
<table>
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<tr>
<th>Agency</th>
<th>Comment</th>
<th>County Response</th>
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<tr>
<td>Home Builders' Association of Metro Denver</td>
<td>500' and 1000' for urban and rural noticing is excessive. Requiring notice to abutting, or at the most 500' from properties, is more reasonable. Large mailings add unnecessary fees to residential housing developments. Request staff attendance required at meetings to answer citizen questions. Property owner information should be provided by the County. Support the following: Case types as written in the draft Code; requiring neighborhood meetings prior to submitting an application.</td>
<td>One of the goals of the Neighborhood Outreach Code Amendment is to ensure affected citizens are aware of proposed development in their area. The County believes the proposed noticing distances are appropriate, but the Planning Division Manager does have the ability to adjust the noticing distance if necessary. Additionally, the draft regulations include reference to a 500 ft. noticing radius; the 1000 ft. radius for rural projects was included in an early report but has since been revised. The County understands there may be some additional costs involved with required neighborhood meetings. Ideally funds spent up front would help reduce possible expenses incurred later: if incompatibilities are discovered early on, time and money will be saved on altering plans. County staff attending required neighborhood meetings creates the opportunity for conflict and confusion: staff attendance may indicate staff or County approval or support of the project. Staff may also be approached with questions on other projects, topics, or work groups, and misunderstandings may result. Additionally, it is a benefit to the applicant to be able to connect with citizens without the distracting presence of County staff. Required meeting documentation will capture questions and concerns brought up at the meeting, and staff will review this documentation. The County has an accessible and convenient mapping system applicants can use to determine the noticing addresses. Staff are happy to explain how to use this tool if applicants have questions.</td>
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<td>Unincorporated Arapahoe County Economic Development</td>
<td>Disagree with further regulation for rural communities in the County. Regulation is too restrictive - another hoop to jump through. Would have adverse impact on flexibility, innovation, and efficiency. Regulation would raise the cost of doing business. Regulation would slow the process and time is often as valuable as money. This proposal should not be adopted at all.</td>
<td>One of the goals of the Neighborhood Outreach Code Amendment is to ensure affected citizens are aware of proposed development in their area, and the proposed regulation is intended to foster thoughtful development in rural areas of the County. Neighborhood meetings are an opportunity for citizens to provide additional feedback so developers and development plans can evolve to better meet citizens’ needs. The County understands there may be some additional costs involved with required neighborhood meetings. Ideally funds spent up front would help reduce possible expenses incurred later: if incompatibilities are discovered early on, time and money will be saved on altering plans. Neighborhood meetings may be held prior to pre-submittal meetings provided they are appropriately noticed and documented, and that there are no significant changes to the project between the neighborhood meeting and the application submittal. The applicant must receive permission from the Arapahoe County Planning Division to hold a neighborhood meeting outside of the typical schedule of after the pre-submittal meeting and prior to application submittal. The opportunity to conduct required meetings prior to pre-submittal applications may work more smoothly with some developers’ timelines.</td>
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<td>Christensen Lane Estates HOA</td>
<td>Supportive of required neighborhood meetings in general. One change: require staff to attend the meeting. If staff doesn’t attend, when the hearing is held staff don’t know if the developer has taken the neighborhood input into account. Our HOA is close to JeffCo so we have public meetings in JeffCo regarding planning/zoning changes. In JeffCo, a staff member attends and explains that the County has not taken a position. The staff member answered questions about process and regulation, and having staff present helped with the conduct of the meeting.</td>
<td>County staff attending required neighborhood meetings creates the opportunity for conflict and confusion: staff attendance may indicate staff or County approval or support of the project. Staff may also be approached with questions on other projects, topics, or work groups, and misunderstandings may result. Additionally, it is a benefit to the applicant to be able to connect with citizens without the distracting presence of County staff. Required meeting documentation will capture questions and concerns brought up at the meeting, and staff will review this documentation.</td>
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<tr>
<td>Denver South Economic Development Partnership</td>
<td>Not submitting a formal position.</td>
<td>Acknowledged; thank you for the response.</td>
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<td>Country Village Property Owners’ Association</td>
<td>Wholeheartedly in favor of this proposal. We recently had neighborhood meetings with Aurora on a project adjacent to our unincorporated community. Had it not been for those meetings, we would not have known of the intent. We got an Aurora Councilperson involved, and changes were made to the development in our favor.</td>
<td>Acknowledged; thank you for the response.</td>
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<tr>
<td>I-70 Corridor Regional Advancement Partnership</td>
<td>No comment.</td>
<td>Acknowledged; thank you for the response.</td>
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<tr>
<td>East Arapahoe County Advisory Planning Commission (2 responses)</td>
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<td>Response 1: It certainly appears there is a strong movement toward more community meetings prior to approval of projects. Issues of concern as a rural Arapahoe County resident: overbearing new regulations - as growth moves to older rural communities we must find a reasonable compromise. At the moment, I recommend alternative 4 in the report. This would begin the phasing in of the inevitable intrusion coming to old hand rural folks!</td>
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<td>Response 2, includes feedback from citizen: Community meetings and outreach can be a great benefit for all involved. Any USR and any impact on land use should seek to ensure everyone potentially impacted is made aware and has the opportunity to comment. This also ensures transparency. There should be reasonableness when considering all views, e.g. how close the impact is to those with the loudest voices. More eyes watching the process ensures greater adherence to proper procedures. More eyes can result in some costs and delays, but the end result is likely much better for the community. (Commenter also provided three specific case examples.)</td>
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<th>Four Square Mile (feedback gathered via meeting)</th>
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<td>Neighborhood meeting signage could be different than hearing signage to differentiate: different color, simple language, only include developer contact. Provide parameters for what would trigger the Planning Division Manager to require a meeting, e.g. development in close proximity to residential, possibly undesirable use, etc. Impact on quality of life is important Include neighborhood groups in noticing as well, especially if there is no HOA in the area. Want to ensure even administrative cases have the chance/possible requirement to have a neighborhood meeting, if relevant; concern about changes that seem minor but are impactful not having a neighborhood meeting, e.g. relocation of trash enclosure. Questions about how Comp Plan amendment meetings fit in - Comp Plan doesn't detail how to do the notice (County answer during meeting: new regs could help provide guidance). Discussion with County and determined that 4SM monthly meeting may be able to function as the neighborhood meeting as long as noticing and documentation requirements are met. Developers will be able to conduct additional meetings as relevant in addition to the required meeting.</td>
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<tr>
<th>Daniel Frank (representing Copperleaf Community Master Developer; feedback gathered via meeting)</th>
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<td>Concern about the timing of the meeting; often developments are on a timeline, and having the meeting prior to application submittal may cause challenges. For larger projects meetings may be able to be held prior to pre-submittal meetings.</td>
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</table>

Response 1: One of the goals of the Neighborhood Outreach Code Amendment is to ensure affected citizens are aware of proposed development in their area, and the proposed regulation is intended to foster thoughtful development in rural areas of the County. Neighborhood meetings are an opportunity for citizens to provide additional feedback so developers and development plans can evolve to better meet citizens' needs.

Response 2: One of the goals of the Neighborhood Outreach Code Amendment is to ensure affected citizens are aware of proposed development in their area. The County believes the proposed noticing distances are appropriate, but the Planning Division Manager does have the ability to adjust the noticing distance if necessary. When County staff review the meeting summaries they will make note of the responses and concerns.

Sign requirements for neighborhood meetings will include clear titling to indicate the purpose and contact information for the meeting. The draft regulations include reference to example characteristics that may trigger the waiver or requirement of a neighborhood meeting: impact on infrastructure and services, compatibility with surrounding land uses, and effect on quality of life. These are parameters that the Division Manager will consider. These characteristics will be considered for administrative cases as well.

Neighborhood groups and HOAs will be included in the required noticing. The 4SM meeting may be able to function as the neighborhood meeting as long as noticing and documentation requirements are met. Developers will be able to conduct additional meetings as relevant in addition to the required meeting.

Neighborhood meetings may be held prior to pre-submittal meetings provided they are appropriately noticed and documented, and that there are no significant changes to the project between the neighborhood meeting and the application submittal. The applicant must receive permission from the Arapahoe County Planning Division to hold a neighborhood meeting outside of the typical schedule of after the pre-submittal meeting and prior to application submittal. The opportunity to conduct required meetings prior to pre-submittal applications may work more smoothly with some developers' timelines.